

TOWN OF FITZWILLIAM

PLANNING BOARD

Meeting Minutes

September 1, 2020

Note: Due to the COVID-19 pandemic, members of the Planning Board met remotely via phone/video conferencing, as allowed under NH Executive Order 2020-04, Emergency Order #12.

Members Present: Chairman Suzanne Gray, Vice Chair Terry Silverman, Secretary Robin Peard Blais, Paul Haynes, Karen Craig, Barbara Young, and Charley Kenison, Selectman representative.

Members Absent:

Staff Present: Land Use Coordinator Lori Nolan

Others Present: Lorraine and Bernie Dubois; Dana Pinney; Paul Grasewicz; Cathaleen Monteverde; Mary Flanders; Rob and Jillian Jones; Neil Vincent; Ron Olsen; Gary Morin; Eric Raciti; Colleen Hurtbusie.

Chairman Suzanne Gray called the meeting to order at 7:01 pm and held roll call.

Case # 20-6 Public Hearing: Edith Monteverde – Minor Subdivision (2 lots) at 89 NH Route 12 South. [Map 15, Lot 61 – General Business and Rural Districts]

Gray welcomed Paul Grasewicz to the meeting. Grasewicz summarized the case stating that the Planning Board wanted to condition the approval to preclude future development and the generation of excess traffic. He could not provide any other options as the state will not allow any change to access.

Gray asked the Dubois' (abutters) about the access issue. Lorraine Dubois stated that the backlot is essentially landlocked and the access cannot be moved. She asked if the access can be made wider. Grasewicz stated it can but there are wetlands and a culvert where water drains in the same area. Gray asked how far it can be shifted or made wider. Grasewicz indicated about 12 feet of additional room, but the culvert might be a problem. L. Dubois asked about the wetlands on her property. Grasewicz explained that there are wetlands on both sides of the access; the path is hugging the right side of the wetlands. Grasewicz then described the easements and wetlands from off the printed site plan.

Terry Silverman asked if it was reasonable to limit the number of homes. Grasewicz replied yes, it is zoned for a single family dwelling, but it is also zoned for business, so development could happen.

L. Dubois asked about shifting the driveway. Grasewicz stated they needed to go through the state for permission to move the culvert. L. Dubois stated that shifting of the access is their preferred option over the easements. Grasewicz stated that one easement would go to Dubois to use as access. They would have about 15 feet between the house and property line. Without the easement, they would have no right to use the access. If this is not agreeable, he can cancel easement plans. L. Dubois stated that without an easement agreement, the new owners would need to move the access. Grasewicz agreed stating it is not

wide enough now (about 5 feet). He can move it over now about 12 feet to the right side where the house is. Bernie Dubois asked if the access can be widened to Route 12 and the culvert has to be moved, why can't the access be moved south as well. Grasewicz stated that the culvert does not have to move and that was the reasoning behind the easements. Easement A would benefit Dubois, giving them access to behind the house. Easement B would give Monteverde access. L. Dubois asked about maintenance. Grasewicz indicated they do not have to do anything; they just cannot block access.

Silverman brought up the functional frontage requirement, asking if the second lot had enough usable frontage as the lot is all wet in the front. Grasewicz disagreed as it is a legal lot and access with the required frontage. Monteverde has been using this access since the 1940s.

Silverman motioned to approve the minor subdivision conditioned that residentially development will be limited to one individual dwelling and the easement is not to be used for commercial use on Map 15, Lot 61.2. Robin Peard Blais seconded. Motion passed unanimously.

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Silverman requested that these conditions be added to the Mylar.

Case # 20-7 Public Hearing: Ronald Olsen – Expansion of front and rear deck, and roof line change within the WPOD at 183 Forest Drive. [Map 42, Lot 2-83 – Rural District], Continuation

Gray read the letter submitted by the Conservation Commission with their recommendations. She then asked Ron Olsen if he had submitted his application to DES. Olsen responded stating he had contacted them but has not applied yet. He was waiting on town approval first. Peard Blais wanted him to contact DES. She agreed with the Conservation Commission's comments as this is close to wetlands and no mitigation of water away from the pond. She would like the DES portion handled first. Silverman agreed with Peard Blais. Barbara Young agreed stating that is the right direction. Gray agreed and asked to continue the hearing until the applicant applied to DES and obtained answers.

Silverman motioned to continue the hearing until DES approval. Peard Blais seconded. Motion passed unanimously.

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

Follow-up Consultation: Robert Jones – Home Occupation/Business at 661 NH Route 119 West [Map 10, Lot 33.2 – Rural District]

Gray welcomed the Jones' to the meeting and explained that the Town received complaints about increased traffic. Robert Jones stated they have had firearms sales for three years. Peard Blais asked if there was an increase in size of building, number of guns, or different signage. Jones responded saying there is nothing different since the second meeting with the Planning Board. They have since built the addition on the garage. The same plan, just busier.

Gray brought up the concern about traffic as at the last meeting with Planning Board, it was stated there would be internet sales and they didn't imagine much traffic. Charley Kenison commented that Jones is currently doing retail sale, rather than internet. Paul Haynes commented that the Planning Board approved the addition for retail sales. Gray then reviewed minutes from that meeting.

Young asked if the hours have changed. Jones responded they are open 35 hours a week but are advertising more. Young followed up asking if there were times when cars were parked on neighbor's yards. Neil Vincent commented that Jones was not telling whole story as he is running a full fledge retail store with about 125 cars a week, and vehicles are parking on Vincent's lawn and causing damage. He further stated that the BoS indicated Jones did not have the right to retail sales. Vincent does not have an issue with the store, just not in that location. Gray explained that they were approved before for a home occupation. Haynes countered stating Planning Board approved retail with no restrictions.

Karen Craig commented that the minutes reflect less open hours than now. Her interpretation of the definitions seem this is a home business and requires a site plan review. The business has since changed. Young agreed with Craig. Jones countered stating that they went to Planning Board for more (addition) and it was approved. Haynes agreed stating the nature of the business did not change. Vincent commented that 127-11A states retail is not allowed in a rural district; the minutes from June 2017 said no retail and according to RSA 159-26, this is defined as a retail store. Full fledge retail was not approved or allowed.

Gray felt this was bordering on a retail business, had concerns about traffic in a rural district, and felt the need to take a closer look at it. Peard Blais felt it was more of a home business but the nature of the business may slow down because of politics. There is a need to consider if a home business or retail. Gray was unsure if the level of traffic would apply under a home business. Jones tried to comment, but Gray asked to hear from the Board first.

Kenison pointed out that the minutes stated rifles and pistols would be on site for sale. Young countered saying the minutes said what was happening at that time. It appeared the business may have extended beyond that. Silverman agreed saying the nature of the business had expanded to straight retail and due to 127-11A, this should go to ZBA. If ZBA hears the case and it works out for the neighborhood, Silverman saw no reason why business could not continue at that location. There might be a need for better signage to restrict access to that property only. Haynes was confused why this would be sent to ZBA. Silverman explained that this has expanded from a home occupation/business to full retail.

Silverman motioned to refer the Jones to seek relief from the ZBA regarding running a retail business in the rural district. Young seconded. Motion passed.

Yes: 4 [Gray, Silverman, Craig, and Young]; No: 2 [Haynes and Kenison]; Abstained: 1 [Peard Blais]

Silverman commented that this does not make Jones stop his business now but will help bolster neighbor relations. This will allow for accommodations for everyone in the neighborhood. Vincent then questioned ZBA as this will not bring any change. Silverman responded that ZBA is a board of relief from regulations. It allows him and the applicant equal rights to speak. Vincent countered that retail is not allowed in the rural district. Gray ended the consultation stating that the ZBA will review the application and will render a decision. She asked the applicants to work with the LUC on the ZBA application.

Preliminary Consultation: Maureen Day – Boundary Line Adjustment at 15 Doyle Court. [Map 12, Lot 18 – Rural District]

Gray welcomed Maureen Day to the meeting. Day showed the board the site map and the reason behind the Boundary Line Adjustment. She thought the previous owner had an easement made up thinking it would give him access to her driveway, but it would gave access to well. Day would like to give back to the current owners, the Hurtbusie's, their land [box 1 and 2] and in exchange receive box 3. After a brief discussion to confirm the location of the boundary line adjustment, Gray advised Day to contact the LUC on next steps.

Follow-up Consultation: Gary Morin – Site Plan Review at 977 NH Route 12 South. [Map 4, Lot 63 – Rural District]

Gray welcomed Morin to meeting stating Planning Board had questions about his business. Morin stated he had filed an application for an addition. Gray brought up the Notice of Decision from 2010 saying there was to be no more than 12 vehicles on the property. Morin responded that the business has expanded beyond that. Twelve cars is no longer reasonable, but he has cleaned up all the vehicles on the right-of-way.

Gray asked if this required a site plan review. Peard Blais questioned the oil and exhaust removal and how that is for a large building. Morin responded that there is no difference. There are no fumes as they keep the doors open and oil is removed when needed.

Haynes commented that there had been no change in use. Gray pointed out that Morin obtained a variance from ZBA. Haynes agreed stating it was approved due to the nature of the neighborhood. Craig added that ZBA minutes from 10 years old stated the business would move once financially able and they had no employees. Morin responded that the business is busy now and he has one employee.

Kenison commented that the BoS had issue with the cars on the road. Morin said that has been handled.

Young asked if the Notice of Decision conditions still apply with the expansion. Haynes said it is a continuation of business. Silverman felt as long as vehicles are neat, orderly, and off the right-of-way, the number of vehicles is not reasonable. Craig commented that the Notice of Decision stated 12; we need to follow the Notice of Decision or hold a new hearing. Haynes countered stating the same condition was issued to Austin's, who never complied. Silverman said the issue is the cars on the right-of-way. They can change the Notice of Decision.

Gray requested Morin come back with a plan for parking. Morin stated he is not opposed to that as there is plenty of parking on site. The cars on the right-of-way bothered him as well. Gray then advised Morin to work with the LUC.

Preliminary Consultation: Raciti Family Trust – Replacement of dwelling within the WPOD at 29 Susan Lane. [Map 19, Lot 7 – Rural District]

Gray welcomed Eric Raciti to the meeting. Raciti explained they have owned this property for 17 years and currently have a three-season cabin. They would like to rebuild the dwelling into a four-season to have heat on the same site.

Paul Grasewicz explained the new structure would fall within the 100 foot set-back. The wooded wetlands is about 80-100 feet from the house, but there are set-back issues. He asked if the house is exempt or required a variance. Gray responded stating that if modifying a non-conforming structure, it would go to ZBA. Grasewicz asked if when replacing would the structure have to remain in the same footprint. Craig felt according to 127-7A, it would require the existing footprint.

Peard Blais agreed with Craig, but asked where the house was. Was Susan Lane the access road? Grasewicz responded in the affirmative stating there are two houses on Susan Lane. A chain normally crosses it. It is a couple hundred yards before the boat ramp. Peard Blais then commented that she felt the new structure must be on the same footprint as the existing house or obtain a ZBA variance.

Gray asked if this has gone to DES yet. Grasewicz said no, stating they want to do the variance first. Gray then advised the applicant to work with the LUC to obtain a variance from ZBA.

Review of Minutes

After a brief discussion and minor edits, **Peard Blais motioned to accept the minutes as corrected. Craig seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

The review of the site walk minutes were tabled until the next meeting.

Craig asked why the DeLuca Conditional Use case was not on the agenda. The LUC explained that the ZBA is finalizing the variance and then the DeLuca's will resolve the CUP.

Old Business

Junk and Junky Yards

Gray explained that the BoS would like an ordinance drafted to help enforcement of the worst offenders. The BoS understand this is a rural environment but they have received a lot of complaints and is wide spread around town. The debris is visible from the road and neighbors with odors, etc.

Peard Blais commented that she spoke with Dan Baker [Selectmen] and he felt a need for a joint BoS/Planning Board meeting. She agreed with that. Young asked if the BoS can prepare areas of importance to help the Planning Board prepare.

Peard Blais asked how farm equipment used once or twice a year versus vehicles that are an eye sore would be handled. Kenison referred to the report prepared by the LUC. Gray asked the LUC to resend the report to the Board.

Wireless Communication Overlay District ordinance review: Gray tabled this topic until the next physical meeting.

Chinook Solar Update:

Gray motioned to go into non-public session for legal reasons. Craig seconded. Motion passed unanimously.

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

At 9:08pm, the Planning Board entered into non-public session.

Gray motioned to exit non-public session. Craig seconded. Motion passed unanimously.

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

At 9:13pm, the Planning Board exited non-public session.

With no further business to discuss, **Gray motioned to adjourn. Kenison seconded. Motion passed unanimously.**

Yes: 7 [Gray, Silverman, Peard Blais, Haynes, Craig, Young, and Kenison]; No: 0; Abstained: 0

The meeting was adjourned at 9:14pm.

Respectfully Submitted,

Lori Nolan

Land Use Coordinator

Approved as written on September 15, 2020